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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,631	01/14/2004	Stuart A. Green	286674.129US (HH/MV/P1028)	5781
23483 7590 08/27/2007 WILMER CUTLER PICKERING HALE AND DORR LLP 60 STATE STREET BOSTON, MA 02109			EXAMINER SHIBRU, HELEN	
			ART UNIT 2621	PAPER NUMBER
			NOTIFICATION DATE 08/27/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

Application No.

10/757,631

Applicant(s)

GREEN, STUART A.

Examiner

HELEN SHIBRU

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 08/23/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

*Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-16 and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferguson (EP 2 303 269).

Regarding claim 1, Ferguson discloses a data processing system comprising controller for processing data representing a first video sequence having associated identification data (see page 3 line 18-page 4 line 3 and fig. 1); means to identify the associated identification data (see page 4 and claims 1 and 17); a correlator to correlate the identification data with a template to determine whether or not there is a correlation between the test plan and the data processed by the controller (see fig. 3 page 6 line 14-page 8 line 21).

Regarding claim 2, Ferguson discloses the controller for processing data representing the first video sequence comprises a presentation engine (see paragraph 4 lines 5-10 and lines 16-20).

Regarding claim 3, Ferguson discloses the first video sequence comprises a user data field in which the unique identification data is stored (see page 4 lines 2-9).

Regarding claim 4, Ferguson discloses a navigation controller for controlling access to the first video sequence in response to associated navigation data (see abstract, page 4 line 22-page 5 line 22).

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Regarding claim 5, Ferguson discloses the navigation data is derived from the template (see claim 13).

Regarding claim 6, Ferguson discloses a register modifier for writing the navigation data to at least one predetermined register accessible by the navigation controller to influence the operation of the navigation controller (see fig. 1 col. 4 lines 2-21).

Regarding claim 7, Ferguson discloses the template comprises at least one of an anticipated unique identifier, an abstraction anticipated as being associated with a unique identifier, an actual abstraction associated with the unique identifier, entry conditions or status information and command information (see col. 4 line 22-col. 5 line 22 and claim 7).

Regarding claim 8, Ferguson discloses a method for testing audiovisual content, the method comprising the step of selecting and processing a data stream, comprising data representing at least one of audiovisual data and identification data, to extract the identification data, using the identification data to access an abstraction associated with the identification data; comparing the abstraction with an anticipated abstraction associated with a test plan; and outputting an indication of the result of the comparison (see fig. 3, col. 8 line 10-21).

Regarding claim 9, Ferguson discloses the step of outputting comprises the step of creating a record of the comparison; the record providing an indication of whether or not the retrieved high-level abstraction matched the anticipated high-level abstraction (see col. 6 line 14-col. 8 line 21).

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Regarding claim 10, Ferguson discloses the step of processing the data stream comprises the step of extracting the identification data from a user field of an encoded elementary video stream (see col. 3 line 18-col. 4 line 21).

Regarding claim 11, Ferguson discloses the step of processing the data stream comprises the step of identifying a current menu associated with the data stream (see claim 1).

Regarding claim 12, Ferguson discloses the step of identifying menu option data, representing at least one option, associated with the current menu and invoking at the at least one option to select and process a next data stream (see col. 4 line 22-col. 6 line 13).

Regarding claim 13, Ferguson discloses the step of creating the test plan (see abstract).

Regarding claim 14, the limitation of claim 14 can be found in claim 7 above. Therefore claim 14 is analyzed and rejected for the same reason as discussed in claim 7 above.

Regarding claim 15, Ferguson discloses the step of creating the test plan comprises the step of associating the identification data of the data stream with an anticipated abstraction representing audiovisual content of the data stream (see claim 7, col. 4 line 22-col. 5 line 22).

Regarding claim 16, Ferguson discloses the step of creating an index comprising an identification data entry for storing a copy of the identification data, and at least a reference to a corresponding abstraction; and in which the step of comparing comprises the step of access the index using the identification data as a key to identify the corresponding abstraction (see fig. 3, col. 8 lines 10-21).

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Regarding claim 18, Ferguson discloses program comprising executable code to implement a system (see col. 4 line 10-col. 8 line 21).

Regarding claim 19, Ferguson discloses A program product comprising storage for storing a program (see col. 4 lines 10-21).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Tanaka et al (US PG PUB 2004/0047603 A1).

Regarding claim 20, Tanaka discloses a DVD comprising presentation data and navigation data together with associated identification data (see paragraphs 0167).

Regarding claim 21, Tanaka discloses the steps of generating a unique identifier for a respective video sequence and encoding the respective video sequence to comprise the unique identifier (see paragraphs 0209, 0223).

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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6. Claims 18-19 are rejected under 35 U.S.C. 101 because the claims are directed to a recording medium storing nonfunctional descriptive material.

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are neither physical “things” nor statutory processes. See, e.g. *Warmerdam*, 33 F. 3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory) and merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make it statutory. In addition a mere arrangements or compilations of facts or data, are merely stored so as to be read or outputted by a computer without creating any functional interrelationship either as part of the stored data or as part of the computing processes performed by the computer then such descriptive material alone does not impart functionality either to the data as so structured, or to the computer, and therefore are not statutory. See MPEP 2106.IV.B.1.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as being a single mean claim. A single means claim is where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983) .

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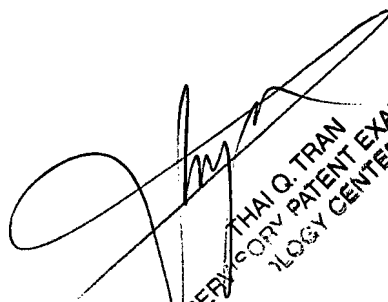
*Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571)272-7329. The examiner can normally be reached on 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Helen Shibru  
August 17, 2007

  
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